

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

COBIE FUGATE CURRY,

Defendant.

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No. 3:06-CV-164
(Phillips)

ORDER

This matter came before the Court upon defendant Cobie Fugate Curry's motion in limine [Doc. 21]. At hearing on the matter, the attorneys tailored the evidence issues contained in the motion in limine, concluding that only evidence issues A, B, G, and H were currently pending before the Court. Items E and F were previously granted as set forth in memorandum and order dated February 9, 2007, and items C and D were implicitly denied in memorandum and order dated March 26, 2007.

Evidence items A, B, G, and H, sought to be excluded, are as follows:

- A. Existing arrest warrants for Cobie Fugate Curry allowed law enforcement officers to initially arrest Mr. Curry.
- B. As law enforcement served the existing arrest warrants upon Cobie Fugate Curry, he made a motion toward his firearm that the arresting law enforcement officers perceived as hostile toward them.
- G. Cobie Fugate Curry is known as a violent individual in the community.
- H. Cobie Fugate Curry is known as a drug dealer in the community.

The Court considered defendant's argument in support of A and B, which includes assertions that the evidence, if admitted, would be unfairly prejudicial; however, the Court found that the facts contained in items A and B are part of the facts of the case. Indeed, A and B consist of admissible officer testimony. Accordingly, the Court found the evidence not excludable, as well as denied defendant's request for an accompanying instruction, above standard instructions to be given at the conclusion of closing arguments.

As to items G and H, the government agreed that reputation evidence would not be used, unless the defendant placed his reputation in issue. Further, the parties agreed that any evidence of specific acts related to G and H would be covered under the Rule 404(b) of the Federal Rules of Evidence and treated accordingly.

In sum, the defendant's motion is **DENIED** as to evidence issues A and B, and **GRANTED**, as set forth above, as to evidence issues G and H.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge